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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, April 20, 2015
84th Legislature, Number 53
The House convenes at noon

Thirteen bills are on the daily calendar for second-reading consideration today. They are listed on the following page.



Alma Allen
Chairman
84(R) - 53

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Monday, April 20, 2015

84th Legislature, Number 53

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SUBJECT: Disposal of desalination waste streams into oil and gas injection wells

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Keffer, Ashby, D. Bonnen, Burns, Kacal, T. King, Larson, Lucio, Nevárez, Workman

0 nays

1 absent — Frank

WITNESSES: For — (*Registered, but did not testify:* Kent Satterwhite, Canadian River Municipal Water Authority; TJ Patterson, City of Fort Worth; David Holt, Colorado River Municipal Water District; Hope Wells, San Antonio Water System; Bill Stevens, Texas Alliance of Energy Producers; Stephen Minick, Texas Association of Business; Kyle Frazier and Steven Walden, Texas Desalination Association; Shanna Igo, Texas Municipal League)

Against — None

On — Charles Maguire, Texas Commission on Environmental Quality

BACKGROUND: Desalination is the process of removing salt from seawater or brackish water. In addition to producing potable water, desalination yields a salty waste product that traditionally requires disposal. Many inland desalination projects inject this waste product into underground wells or discharge it into a surface water source. Discharging into surface water may require blending the salty waste with desalinated water in order to meet water quality standards. Desalination facilities closer to the coast often deposit the salty waste into the sea.

Class V underground injection wells are permitted by the Texas Commission on Environmental Quality (TCEQ) for the shallow injection of nonhazardous fluids underground, typically into or above underground sources of drinking water. Class V injection wells are regulated to prevent drinking water contamination or adverse effects on public health. Examples of class V wells include industrial waste disposal wells, storm

water drainage wells, and large-capacity septic systems.

Class II underground injection wells are permitted by the Texas Railroad Commission for the disposal of oil and gas exploration-related waste.

DIGEST: HB 2230 would allow the disposal of class V-authorized nonhazardous brine or nonhazardous drinking water treatment residuals from desalination operations into class II wells.

The bill would authorize the Texas Commission on Environmental Quality (TCEQ) to use its class V injection well authority — by individual permit, general permit, or permit by rule — for the disposal of desalination waste streams into a class II injection well permitted by the Texas Railroad Commission. TCEQ and the Railroad Commission would, by rule, be required to enter into a memorandum of understanding on this dual authorization authority.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: HB 2230 would allow the use of class II wells for the disposal of class V-authorized, nonhazardous desalination waste streams without requiring a time-consuming and costly permitting process.

One of the most expensive parts of the desalination process is disposing of the salty waste left over from desalinating water. More than 50,000 class II injection wells used for the disposal of oil and gas-related waste are already permitted and operational across the state. This bill would allow the nonhazardous desalination waste stream — essentially a salty brine that is already authorized to be deposited into a shallow class V well — to instead be injected into a much deeper class II oil and gas injection well. The bill could reduce the need for drilling new class V wells and the wasteful practice of blending the salty waste with produced water in order to discharge it into a surface water source. This authorization has been thoroughly vetted by all affected agencies, the Texas Commission on Environmental Quality, the Texas Railroad Commission, and the Environmental Protection Agency.

OPPONENTS No apparent opposition.
SAY:

SUBJECT: Allowing limited use of cell phones in voting stations

COMMITTEE: Elections — favorable, without amendment

VOTE: 4 ayes — Laubenberg, Fallon, Israel, Phelan

1 nay — Schofield

2 absent — Goldman, Reynolds

WITNESSES: For — Seth Mitchell, Bexar County Commissioners Court; George Hammerlein, Harris County Clerk's Office; Cinde Weatherby, League of Women Voters of Texas; Glen Maxey, Texas Democratic Party; *(Registered, but did not testify: Rene Lara, Texas AFL-CIO; Steven Garza and Daniel Gonzalez, Texas Association of REALTORS; Kathy Haigler)*

Against — Dana DeBeauvoir, County Clerks Legislative Committee; Alan Vera, Harris County Republican Party; John Oldham, Texas Association of Elections Administrators; *(Registered, but did not testify: Gaudette; Kelly Horsley; Colleen Vera)*

On — Janice Evans, County and District Clerks Association of Texas; Robin Chandler, Disability Rights Texas; Ashley Fischer, Office of the Secretary of State; Bill Fairbrother, TRCCA; *(Registered, but did not testify: Keith Ingram, Office of the Secretary of State, Elections Division)*

BACKGROUND: Election Code, sec. 61.014 prohibits a person from using a wireless communication device or any mechanical or electronic means of recording images or sound within 100 feet of a voting station. This restriction does not apply to election officers who are using the device to conduct their official duties or people employed at the location where a polling place is located while they are acting in the course of their employment. It also does not apply to the use of election equipment necessary to conduct the election.

If someone uses a wireless communication device or a means of recording images or sound within 100 feet of a voting station, the presiding judge

may require the person to turn off the device or to leave the polling place.

Election Code, sec. 62.0111 allows election judges to place notices of the prohibition of the use of certain devices, such as wireless communication devices, at one or more locations in the polling place where they can be read by persons waiting to vote. The wording of the notices is prescribed by the secretary of state.

DIGEST: HB 675 would allow someone in a voting station to use a mobile phone to access information that was downloaded, recorded, or created before the person entered the polling place.

Presiding judges could post notices at polling places regarding “use,” rather than “prohibition,” of certain devices, such as mobile phones.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: HB 675 would allow voters to access valuable tools in the voting station by permitting them to use information stored on their cell phones. Because the length of ballots in some counties grows every year, remembering every candidate’s name in every election becomes difficult. This bill would allow voters to do their research before entering the voting booth, store the results of that research on an easily accessible digital file, and reference that information while in the voting station.

Permitting cell phone use as prescribed by HB 675 simply would update the law to reflect current technology. Current law already allows voters to bring written materials into the voting booth to help them cast their ballots. This bill would save voters the trouble of writing or printing materials by allowing them to access documents and files stored on their mobile devices.

Furthermore, current law places no restrictions on the use of cell phones for individuals who vote by mail. There is nothing to stop a person who submits a mail-in ballot from using a cell phone or any other device while

filling it out. It makes little sense to allow some voters the ability to use cell phones to assist them in the voting process and to leave others without this assistance.

HB 675 also could benefit people with physical and cognitive disabilities. Many people with disabilities rely on cell phones and tablets to access assistive technology. Allowing use of a mobile device could allow disabled individuals to vote without assistance from another person. This would give disabled individuals autonomy and privacy in the voting station.

While it could be difficult to ensure that voters were using their phones only to access stored data, voters already are using their phones at the polling places and in the voting booths, despite the prohibition in current law. This bill simply would make certain functions legal. In addition, any disturbances that arose from cell phone use would not differ from disturbances that could arise from people who attempt to talk to others while in the voting station.

This bill would not increase the risk of people using recording devices near voting stations. Voters currently are not prohibited from having their cell phones with them, only from using them, and they would be as likely to use a cell phone as a recording device under current law as they would be under the bill. Election judges across the state have had success putting tape over lenses and microphones on cell phones, which easily solves the problem of people using their cell phones as recording devices.

Even if people used their phones as recording devices, it is unlikely that they would capture anything confidential. Although a voter's ballot is confidential, the fact that they are voting is public record. Unless the person attempting to record a voter was close enough to record a completed ballot, the recording would not capture confidential materials.

The bill would alleviate one of the biggest points of contention between election workers and voters on election day — cell phone use. Instead of focusing on voters' cell phone use, election workers could devote more attention to monitoring the voting process.

OPPONENTS
SAY:

HB 657 would amplify the current problem of cell phone use in polling places. Although the bill would restrict cell phone use to data already stored on the phone, enforcing that provision would be nearly impossible. Cell phone use could lead to issues such as disruption of the voting process, improper recording of the polling location, voter coercion, and electioneering.

Enforcement of limited cell phone use would be difficult and would vary across counties. Election workers generally do not approach voters in the voting station and would have difficulty discerning for what purpose voters were using their cell phones. If voters received certain information not stored on their phones while voting, it could constitute the offense of unlawfully influencing a voter. Interested parties also could pay or coerce voters to take pictures of their completed ballots as proof of their vote.

Use of cell phones at polling places could disrupt the voting process if voters failed to silence their cell phones or if they tried to have cell phone conversations while in the voting station. They also could attempt to take pictures, which might make other voters uncomfortable.

Allowing cell phone use could infringe on voters' right to cast a ballot in secret. Cell phones could be used to record or take pictures of people while they were in the voting booth, and the potential for this would diminish the feeling of and right to privacy in casting a ballot.

Failure to enforce cell phone use properly could lead to electioneering within the polling place. Overzealous voters could play campaign materials on their phones while standing at a voting station or have loud cell phone conversations in which they discussed candidates or ballot measures.

Even if it is possible for some of these issues to arise under current law, allowing the use of cell phones at voting stations would make it more difficult for election workers to fulfill their duty of overseeing the voting process.

OTHER
OPPONENTS

The bill should allow voters to use their cell phones while waiting in line but not at the voting station. Policing the cell phone use of individuals

SAY: waiting in line to vote is a burden on election workers, who already have numerous responsibilities on election day. People often wait in line for several hours to vote and should be allowed access to their cell phones while waiting.

NOTES: A companion bill, SB 1491 by Garcia, was referred to the Senate State Affairs Committee on March 19.

SUBJECT: Promoting alternative guardianships for incapacitated persons

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Clardy, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

1 absent — Hernandez

WITNESSES: For — Farhat Chishty and Debby Salinas Valdez, Guardianship Advocates for the Disabled & Elderly (GRADE); and five individuals; (*Registered, but did not testify*: Joe Sanchez, AARP Texas; Bob Kafka, ADAPT of Texas; Dennis Borel, Coalition of Texans with Disabilities; Joe Tate, Community NOW!; Kathryn Lewis, Disability Rights Texas; Mark Cundall, Disability Voting Action Project; Gyl Switzer, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers - Texas Chapter; Catherine Cranston, Personal Attendant Coalition of Texas; Guy Herman, Statutory Probate Courts of Texas; Rona Statman, Texas Advocates; Ginger Mayeaux, The Arc of Texas; Carlos Higgins, TX Silver Haired Legislature; and seven individuals)

Against — None

On — David Slayton, Office of Court Administration, Texas Judicial Council; Nathan Hecht, Supreme Court of Texas, Texas Judicial Council; Belinda Carlton, Texas Council for Developmental Disabilities; (*Registered, but did not testify*: Jemila Lea, Hogg Foundation for Mental Health)

BACKGROUND: Title 3 of the Estates Code lays out the requirements for guardianships, as well as the process for creating, modifying, and terminating guardianships. Among the requirements for creating, modifying or terminating a guardianship are those governing:

- the content of a guardianship application or application to terminate

or modify;

- physician's evaluations of the proposed ward;
- burdens of proof at guardianship proceedings; and
- findings of fact for a determination of incapacity.

Title 3 also establishes the requirements for full guardianships and limited guardianships. A guardian with full authority is appointed when a court finds that the proposed ward is totally without capacity to care for himself or herself, manage his or her property, operate a motor vehicle, and vote in a public election. A guardian with limited powers is appointed when a court finds that the proposed ward lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself or to manage his or her property.

DIGEST:

HB 39 would require that all substitutes for guardianship be considered before creating a full guardianship, require that doctors evaluate proposed wards to determine if guardianship was necessary before creating a guardianship, preserve wards' rights to make decisions regarding their residence, and provide for guidance and training for attorneys and court appointees involved in guardianship cases.

Substitutes for guardianship. The bill would define "alternatives to guardianship" to include:

- execution of a medical power of attorney;
- appointment of an attorney in fact or agent under a durable power of attorney;
- execution of a declaration for mental health treatment;
- appointment of a representative payee to manage public benefits;
- establishment of a joint bank account;
- creation of a management trust;
- creation of a special needs trust;
- designation of a guardian before the need arises; and
- establishment of alternate forms of decision-making on person-centered planning.

The bill would define "supports and services" to mean available formal

and informal resources and assistance that enable an individual to:

- meet the individual's needs for food, clothing, or shelter;
- care for the individual's physical or mental health;
- manage the individual's financial affairs; or
- make personal decisions regarding residence, voting, operating a motor vehicle, and marriage.

HB 39 would require an application for the appointment of a guardian to state whether alternatives to guardianship and available supports and services to avoid guardianship had been considered and whether the alternatives were feasible and would avoid the need for guardianship. A court would be required to find, by clear and convincing evidence, that alternatives had been considered and determined not feasible before appointing a guardian for a proposed ward.

At a hearing on an application for a complete restoration of a ward's capacity or modification of a guardianship, evidence as to whether the guardianship was necessary and whether the specific powers or duties of the guardian should be limited if the ward received supports and services would be relevant.

The bill would require a court to make a reasonable effort to consider, and give due consideration to, the incapacitated person's preference as to who should be appointed guardian, regardless of whether the incapacitated person had designated a guardian before the need arose.

HB 39 would require a court to give consideration to aspects of the ward's capacity both with and without supports and services before reaching certain decisions or taking certain actions. These would include:

- requiring a court order appointing a guardian with limited authority to specifically state whether the proposed ward lacked capacity, with and without supports and services, to make decisions about residence, voting, driving, and marriage;
- requiring that the possibility of supports and services be considered in a finding of partial lack of capacity;

- requiring that any order appointing a partial guardian specify the specific rights and powers retained by the ward both with and without supports and services;
- allowing use of supports and services to be considered in an application to modify the powers of a guardian;
- allowing supports and services to be considered for a finding that the nature and degree of the ward's incapacity warranted a modification of the guardianship and the restoration of some of the ward's rights;
- allowing a court to terminate a guardianship if the ward, with supports and services, was found to have full capacity to care for himself or herself and to manage his or her property; and
- requiring that a court order completely restoring a ward's capacity or modifying the guardianship state any necessary supports and services for the restoration or modification.

Evaluation by physicians. Under the bill, the physician's letter or certificate required for a court to grant an application to create a guardianship would be required to state:

- whether improvement in the proposed ward's condition was possible and, if so, the period after which the ward should be reevaluated to determine whether guardianship continued to be necessary;
- how the proposed ward's abilities to administer daily life activities, both with and without supports and services, were affected by the ward's physical or mental health; and
- whether a guardianship was necessary for the proposed ward and, if so, whether specific powers or duties of the guardian should be limited if the proposed ward received supports and services.

If the letter or certificate stated that improvement in the ward's condition was possible and specified a period of less than a year after which the ward should be reevaluated to determine continued necessity for guardianship, the bill would require that an order appointing a guardian include the date by which an updated letter or certificate would be required.

Under the bill, the physician's letter or certificate, required in a hearing for complete restoration of the ward's capacity, would take supports and services into account when stating whether or not the ward had capacity.

Decisions regarding residence. The bill would prohibit a guardian, except in cases of emergency, from moving the ward to a more restrictive care facility unless the guardian filed an application with the court, provided notice to any persons who had requested it, and the placement was authorized by court order.

HB 39 would require that an application for the appointment of guardianship specifically include any request for termination of a ward's right to make personal decisions regarding residence.

The bill would add lack of capacity to make personal decisions about residence to the list of incapacities that a court would be required to find in order for it to appoint a guardian with full authority. An order appointing a full guardian would be required to specify that the proposed ward lacked this capacity.

HB 39 would specify making personal decisions about residences as part of the proposed ward caring for himself or herself under a limited guardianship. It would require that an order appointing a partial guardian for a person who was incapacitated due to a mental condition specify whether the person retained the right to make personal decisions regarding residence.

HB 39 would require that limited guardianships be designed to allow incapacitated persons to make personal decisions regarding their residence.

Under the bill, a ward or other interested party could file an application for an order to limit the guardian's powers that would permit the ward to make decisions regarding residence.

Under HB 39, any order modifying guardianship would be required to specify whether the ward retained the right to make personal decisions

regarding residence if the ward's incapacity resulted from a mental condition.

Attorneys and court appointees. The bill would require that any attorney for an applicant for guardianship complete the same course of study and certification by the State Bar of Texas that is required of court-appointed attorneys in guardianship proceedings. HB 39 would increase the number of hours required for certification from three hours to four and require that one of those hours involve instruction on alternatives to guardianship and supports and services available to proposed wards.

Attorney ad litem. The bill would require an attorney ad litem to discuss with the proposed ward whether alternatives to guardianship would meet the ward's needs and avoid the need for appointment of a guardian. The attorney ad litem also would be required to investigate whether a guardianship was necessary and, if necessary, whether specific powers or duties of the guardian should be limited if the proposed ward received supports and services. If the attorney ad litem determined that a guardianship was necessary, the attorney would be required to certify to the court that it was necessary and that reasonable efforts had been made to explore alternatives to guardianship and supports and services.

Guardian ad litem. Under the bill, the guardian ad litem would be required to investigate whether a guardianship was necessary for the proposed ward and evaluate alternatives to guardianship and supports and services available to the ward that would avoid the need for appointment of a guardian. The information gathered by the guardian ad litem would be subject to examination by the court.

Effective date. HB 39 would take effect September 1, 2015, and would apply to a guardianship created before, on, or after that date. The bill would apply to an application for guardianship pending on, or filed on or after, the effective date.

Certain provisions would apply to guardianship proceedings, applications for the restoration of a ward's capacity, and proceedings for the restoration of a ward's capacity or the modification of a ward's guardianship that were filed on or after the effective date. Certain

provisions would apply to appointments of attorneys and guardians ad litem made on or after the effective date.

**SUPPORTERS
SAY:**

HB 39 would help ensure that guardianship was used only as a last resort and would provide guidance to attorneys, judges and individuals involved in guardianship proceedings. Applications for guardianship have increased dramatically in recent years, and there are currently about 50,000 active guardianships in the state. This increase is expected to accelerate as a result of the “silver tsunami” Texas will experience as the “baby boomer” generation ages. Although guardianship is a useful tool for those who need it, it can be a costly and excessive restriction on those who do not.

This bill would improve the guardianship process by promoting substitutes for guardianship, ensuring that physicians help determine whether guardianship is necessary and whether courts implement the least restrictive guardianship provisions possible. It also would help by promoting training and providing guidance to attorneys and individuals involved in guardianship proceedings.

Substitutes for guardianship. Although guardianship can be a godsend to some, it can be a curse to others. Frequently, people apply for guardianship for someone in need of care without realizing how restrictive guardianships can be. HB 39 would present those applicants with substitutes for guardianship — including alternatives to guardianship and available supports and services — that could better suit the needs of the wards. This early consideration would help ensure that individuals who did not require overly restrictive guardianships received needed assistance without having their freedom curtailed. The consideration of supports and services also would make it more likely that wards were placed in less restrictive partial guardianships.

Because it would apply to guardianships created before its effective date, HB 39 also would make it easier for individuals who are currently in overly restrictive guardianships to tailor those guardianships to better meet their needs. By allowing alternatives to guardianship and supports and services to be considered in motions to modify the guardianships, this bill would expand the avenues to allow current wards greater autonomy.

Evaluation by physicians. Although the vast majority of applications for guardianship are filed by concerned and well-meaning individuals, guardianship can be used to take advantage of a proposed ward. This bill would help prevent the improper use of guardianship provisions by ensuring that a physician weighed in on the need for assistance and whether alternatives to guardianship or supports and services sufficiently met the proposed ward's needs or if a partial or complete guardianship was needed.

HB 39 would ensure that if a ward's condition improved, he or she would not remain trapped under burdensome conditions. Instead the ward would be reevaluated at regular intervals to ensure that the ward's autonomy was not hampered by unnecessary restrictions.

Under the bill, physicians' opinions on the capacity of wards and their guardianship needs would be made available to the courts in hearings to terminate or modify guardianships. In some cases, this could provide evidence that would help wards move to less restrictive guardianships.

Decisions regarding residence. HB 39 would help protect a fundamental right that too often is taken away from persons under guardianship — the right to select their place of residence. Guardianship frequently is used to move wards into assisted living facilities, even when it is not in the best interest of the ward. This bill would place consideration of the ward's capacity to make decisions about where to live at every stage of guardianship proceedings. These considerations would ensure that wards were not moved to care facilities that were more restrictive than their needs dictated.

Attorneys and court appointees. The bill would ensure that those involved with guardianship proceedings received the proper training and guidance to fulfill their roles and protect the interests of the wards. Requiring attorneys representing applicants for guardianships to be properly certified would ensure that these attorneys were trained on how to consider the needs and autonomy of the ward at the application stage. Increasing the number of hours necessary for certification and requiring training on alternatives to guardianship and supports and services further would promote the use of substitutes for guardianship, thus helping to

ensure that wards' needs were properly addressed. The certification process should not be an issue for attorneys because the courses required by this bill are widely available through the State Bar of Texas and can be completed through both live and online courses.

HB 39 would provide guidance on the role of attorneys and guardians ad litem. This training would be essential to ensure that they carried out their roles in a way that was most conducive to the needs of the proposed ward. Although the current actions of attorneys ad litem and guardians ad litem are usually in line with the guidance provided in this bill, explicitly requiring that they consider alternatives to guardianship, supports and services, and whether guardianship was necessary would create uniformity in the way the needs of wards were protected across the state.

The requirements for attorneys and guardians ad litem in this bill would ensure that courts across the state handled guardianship proceedings in a way that fit the needs of the proposed ward. Although larger counties have probate courts in which judges and attorneys are well versed in guardianship issues, guardianship proceedings in 244 Texas counties are handled by constitutional county courts in which judges sometimes do not have law degrees and attorneys have not had significant experience with guardianship proceedings. This bill would ensure that those counties had proper guidance in these proceedings.

**OPPONENTS
SAY:**

Substitutes for guardianship. This bill unnecessarily would burden the guardianship process. Although there are times when alternatives to guardianship and supports and services are appropriate, taking time to consider them in every case would be unnecessary. This bill would add costly, unnecessary steps in cases where guardianship clearly was necessary.

Attorneys and court appointees. HB 39 could create a monopoly for attorneys who practice guardianship law. It would impose a costly barrier to entrance to practice in guardianship proceedings that would make it difficult, especially in small counties, for concerned individuals to find attorneys to assist with guardianship applications. Attorneys with large guardianship practices would not hesitate to seek certification, but attorneys in rural areas who did not regularly practice guardianship law

likely would choose not to pay for the courses. This would limit severely the availability of guardianship attorneys in these areas.

By requiring special certification for applicants' attorneys, this bill would set a bad precedent. Very few areas of law require certification beyond a general license to practice. Generally, certifications are required for attorneys who represent individuals in need of care, such as children or wards of guardianship. However, attorneys for applicants do not represent the ward — they represent the concerned friend or family member applying for the guardianship.

This bill could create a conflict of interest for attorneys ad litem. By requiring them to share with the court their findings on whether guardianship was necessary for a proposed ward, the bill would force attorneys ad litem to violate attorney-client privilege and potentially do something contrary to the interest of their client. An attorney ad litem has a duty to be an advocate for the proposed ward's stated interests, even if the attorney believes that guardianship is necessary for a ward who does not want it. The requirements of this bill would run counter to that duty. This conflict of interest would not exist for the guardian ad litem, who would be much better situated to evaluate whether guardianship was necessary for the proposed ward.

NOTES: The Senate companion bill, SB 1224 by Schwertner, was referred to the Senate State Affairs Committee on March 17.

SUBJECT: Providing early and comprehensive assessments for children in state care

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Raymond, Rose, Keough, Klick, Naishtat, Peña, Price, Spitzer

0 nays

1 absent — S. King

WITNESSES: For — Ashley Harris, Texans Care for Children; Sarah Crockett, Texas CASA; (*Registered, but did not testify*: Leela Rice, Austin Travis County Integral Care; Katharine Ligon, Center for Public Policy Priorities; Christine Bryan, Clarity Child Guidance Center; Eric Woomer, Federation of Texas Psychiatry; Cinde Weatherby, League of Women Voters of Texas; Gyl Switzer, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers-Texas Chapter; Katherine Barillas, One Voice Texas; Danette Castle, Texas Council of Community Centers; Jan Friese, Texas Counseling Association; John Kreager, Texas Criminal Justice Coalition; Jimmy Widmer, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Dimple Patel, TexProtects; Casey Smith, United Ways of Texas; Rebecca Bryant, Youth Leadership Council; Melanie Babbitt; Michael Gutierrez; Hope Jameson; Alicia Vogel)

Against — None

On — (*Registered, but did not testify*: Lana Estevilla and Elizabeth “Liz” Kromrei, Department of Family and Protective Services; Tamela Griffin, Health and Human Services Commission)

BACKGROUND: Family Code, ch. 266 governs the medical and educational services provided to children in foster care. Among other provisions, it contains guidance on medical services to be provided to a child being served by the Department of Family and Protective Services, including a requirement that the department identify a medical home for each foster child and that

the child receive an initial comprehensive assessment and other services to meet the child's ongoing physical and mental health needs throughout the duration of the child's stay in foster care.

Family Code ch.263 requires that a service plan for a child placed in the care of the state be filed by the 45th day after the court appoints the department as temporary managing conservator. The plan must contain, among other items, goals and deadlines associated with the child's care and with his or her reunification with parents or placement for adoption.

DIGEST: CSHB 1852 would require that a child entering the care of the Department of Family and Protective Services receive a comprehensive assessment no later than the 45th day after the child entered conservatorship. The assessment would have to include a screening for trauma and interviews with individuals who were knowledgeable about the child's needs. The department would be required to develop guidelines on what the assessment report should include.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 1852 would improve the department's ability to meet the short- and long-term needs of a child who enters conservatorship by ensuring that caseworkers and advocates had the type of information they needed to serve the child well early in the process. It would ensure that a child was thoroughly assessed — ideally in conjunction with his or her first placement by the department — and would assist staff in identifying appropriate initial services for the child. More specifically, having a comprehensive assessment completed in time to inform the service plan would improve the quality of the plan and likely lead to a better placement decision for each child.

Children currently are assessed during various time frames when they enter the department's care, and the type of testing they receive can differ from case to case. CSHB 1852 would create uniform expectations that applied to each child and would be conducted early enough in the conservatorship process to help the child adjust to being in care.

Children often are traumatized by experiences that have led to their

entrance into state care and by separation from their parents. This trauma can lead to behavior that is sometimes confused with mental illness and can lead caregivers to conclude that a child needs psychotropic medication when the child does not. Without appropriate screening that takes the possible effects of trauma into account, a child's placement and other care, such as medications, may be mismatched with the child's actual needs.

Comprehensive testing would take into account more factors, such as psychosocial factors, and would provide a more well-rounded picture of the child. In particular, including interviews with individuals who knew the child, such as family members, would help caseworkers and others responsible for their care differentiate between conditions that might have existed over time and conditions that could be a result of recent events.

The modest costs for staff training and the acquisition of an assessment tool associated with implementing the bill would be worthwhile considering the benefits to the child and the fact that having this knowledge would enable caseworkers, foster parents, advocates and others to support the child more appropriately. While caseworkers currently are burdened by many requirements, the information collected during the assessment would make caseworkers' jobs more efficient and potentially more effective, while helping to avoid subjecting the child to unnecessary or inappropriate services.

The bill would ensure that a child received a thorough assessment early on in the child's experience with DFPS. This would include an assessment for the effects of trauma and information gathered from people who knew the child well. Ultimately, better assessments would result in better placement and care, which in turn would lead to better outcomes for the child.

**OPPONENTS
SAY:**

CSHB 1852 would add to the duties and responsibilities of staff in the first 45 days that a child was in the care of the department. It also would apply a one-size-fits-all approach by asking the department to conduct an assessment that met certain criteria for all children.

**OTHER
OPPONENTS**

CSHB 1852 would not address how the department should use the information obtained or how and when follow-up assessments should be

SAY: conducted. Conducting a comprehensive assessment in the first 45 days of a child's conservatorship could be too early to achieve good results or could be harmful if the child's trauma were too fresh.

NOTES: According to the Legislative Budget Board's fiscal note, the implementation of CSHB 1852 would cost about \$565,000 through fiscal 2016-17. A rider in the fiscal 2016-17 general appropriations bill passed by the Senate contains \$600,000 in funding for this purpose, contingent on enactment of the Senate companion, SB 125 by West, or similar legislation relating to certain assessments for children in the conservatorship of DFPS.

SB 125 by West was approved by the Senate on April 9.

The committee substitute differs from the bill as filed in that the word "psychosocial" does not appear in the description of the assessment that CSHB 1852 would require when a child entered DFPS. The committee substitute, unlike the bill as filed, would not require the department to develop "a schedule of approved assessment tools that may be used in the performance of an assessment."

SUBJECT: Adding federal immigration facilities to definition of correctional facility

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Shaheen, Simpson

0 nays

1 absent — Leach

WITNESSES: For — (*Registered, but did not testify*: Jennifer Allmon, the Texas Catholic Conference of Bishops; Teresa Beckmeyer; Marla Flint; Jeffrey Knoll)

Against — None

BACKGROUND: Penal Code, sec. 39.04 makes it a crime for certain officials and others involved with correctional facilities to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with someone in custody or to deny a person in custody a right, privilege, or immunity knowing that it is illegal to do so. This applies to officials or employees of correctional facilities, anyone other than employees working at correctional facilities for pay, volunteers at these facilities, and peace officers.

In sec. 39.04, "correctional facilities" means secure correctional and detention facilities defined under juvenile justice provisions in the Family Code and any place described in Penal Code, sec. 1.07(a)(14). Penal Code, sec. 1.07 defines correctional facilities as places designated by law to confine persons arrested for, charged with, or convicted of criminal offenses, including the following places:

- city and county jails;
- facilities operated by or for the Texas Department of Criminal Justice; and
- certain facilities operated by local community supervision and corrections (probation) departments.

Code of Criminal Procedure, art. 18.20, sec. 8B governs the detection of cell phone or wireless communication devices in correctional and detention facilities. In this section, correctional facility carries the same definition as in Penal Code, sec. 39.04(e).

DIGEST:

HB 511 would expand the definition of correctional facilities in Penal Code, sec. 39.04(e), which governs civil rights violations and improper sexual activity with those in custody, to include places designated for the detention of persons suspected of violating a provision of the federal Immigration and Nationality Act.

The bill also would revise the definition of correctional facility in Code of Criminal Procedure, art. 18.20, sec. 8B, which governs the detection of cell phone and wireless communication devices in correctional facilities. Sec. 8B would refer to Penal Code, sec. 1.07(a)(14) and Family Code, ch. 51 (Juvenile Justice Code), instead of referencing Penal Code, sec. 39.04(e) for the definition of correctional facility.

The bill would take effect September 1, 2015, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 511 would ensure that those confined in Texas for violations of federal immigration law had the same civil rights protections and protections from sexual misconduct as those in other correctional facilities in the state. While the state has a specific criminal offense for engaging in sex with someone in custody or denying a person in custody certain rights, the crime must occur in a correctional facility that meets definitions in the Penal Code. However, these definitions do not include facilities that detain persons suspected of violating federal immigration law.

HB 511 would address this problem by broadening the definition of correctional facility to include facilities detaining persons under federal immigration law. Those housed in such facilities in Texas have the same vulnerability as those in other correctional facilities and should be protected by the same laws.

The bill also would harmonize references to the definition of correctional facility in Code of Criminal Procedure, section Art. 18.20, sec. 8B, which

addresses the detection of cell phone or wireless communication devices, with other provisions in the statutes by referring to the general definition sections in the Penal Code and Juvenile Justice Code.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The Senate companion bill, SB 509 by Rodríguez, was referred to the Senate Criminal Justice Committee on February 11.

SUBJECT: Use of notary to waive right to certain probation revocation hearings

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Shaheen, Simpson
0 nays
1 absent — Leach

WITNESSES: For: — (*Registered, but did not testify:* Seth Mitchell, Bexar County Commissioners Court; Mark Mendez, Tarrant County Commissioners Court; John Dahill, Texas Conference of Urban Counties)

BACKGROUND: Code of Criminal Procedure, Art. 42.12, sec. 21 establishes the procedures for hearings for individuals accused of violating a condition of community supervision (probation). A judge may revoke the community supervision of a defendant who is incarcerated in a penal institution without holding a hearing if certain conditions are met. Defendants must, in writing and before a court where they are imprisoned, waive their right to a hearing and to counsel, affirm that they have nothing to say as to why their probation should not be revoked, and request the judge to revoke their probation.

DIGEST: HB 518 would allow offenders incarcerated in a penal institution to use a notary public to waive their right to a probation revocation hearing and to counsel.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: HB 518 is needed to provide another way for those in correctional facilities to waive their right to a hearing and to counsel when accused of violating their probation.

When a defendant on probation is incarcerated, the hearing to revoke probation is often a formality. Still, to waive this hearing, the defendant must be transported to a court to sign a waiver, which is unnecessary and

puts a burden on the correctional facility and the county where the court is located. It also can be against the wishes of defendants who may not want to disrupt their routine or rehabilitation programs to be transported to a court.

HB 518 would provide a more efficient alternative by allowing defendants to waive the hearing in front of a notary public. Many correctional facilities have a notary on staff so offenders could waive their hearing without leaving the facility. Offenders' rights would be protected by standard remedies available for such proceedings, and the choice of using a notary or a court appearance to waive a probation hearing would remain entirely with the offender.

**OPPONENTS
SAY:**

HB 518 could put some defendants at risk of waiving their rights without proper information, and court appearances could help preserve that protection.

SUBJECT: Creating associate auctioneer license and regulating certain transactions

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Smith, Gutierrez, Geren, Goldman, Kuempel, D. Miller

0 nays

3 absent — Guillen, Miles, S. Thompson

WITNESSES: For — Kenneth Holt, Ritchie Bros. Auctioneers; Greg Glod, Texas Public Policy Foundation; John Swofford, Texas Wholesale Automobile Auction Association

(Registered, but did not testify: Colin Parrish and Ray Sullivan, Copart; Victoria Ford, EBay; Mark Vane, Gardere Wynne Sewell; Steven Garza and Daniel Gonzalez, Texas Association of REALTORS)

Against — Brent Graves, Texas Auctioneers Association; James Swigert; Mark Switzer

On — William Kuntz, Texas Department of Licensing and Regulation

BACKGROUND: Occupations Code, ch. 1802 governs auctioneers. In 2013, the 83rd Legislature amended ch. 1802 through the enactment of HB 3038 by Anderson. Among its provisions, HB 3038:

- changed the definition of “auction” to mean the sale of property by competitive bid using any method, format, or venue;
- changed the definition of “auctioneer” to include any person who solicits, negotiates, or executes an auction listing contract, whether or not the person acts as a bid caller;
- eliminated references in code to the position of “associate auctioneer,” including licensing requirements; and
- allowed a licensed auctioneer to conduct an auction for a real estate brokerage firm that is operated by a broker licensed by the Texas

Real Estate Commission.

HB 3038 also amended sec. 1802.002 to specify that the chapter does not apply to certain transactions, including a sale or auction conducted outside of Texas and a sale conducted by any person of their property if they are not engaged in the business of selling property at auction on a recurring basis.

DIGEST:

CSHB 2481 would add an associate auctioneer license to Occupations Code, ch. 1802, revise auctioneer license requirements, exempt certain transactions from being conducted by a licensed auctioneer, and make changes to the Auctioneer Education Advisory Board and certain administrative procedures.

The bill would define “associate auctioneer” as an individual who, for compensation, was employed by and under the direct supervision of a licensed auctioneer to sell or offer to sell property at an auction.

An “auctioneer” would be any individual who sold or offered to sell property of another person by live bid at auction, with or without receiving consideration. A person who “solicits, negotiates, or executes an auction listing contract” would no longer fall under the definition.

CSHB 2481 would require associate auctioneers, as well as auctioneers, to hold licenses issued by the executive director of Texas Commission of Licensing and Regulation (TCLR). In lieu of passing a written or oral examination, an applicant for an auctioneer’s license could show proof of working as an associate auctioneer for at least two years and participation in at least 10 auctions during that time. An individual would be eligible for an associate auctioneer license if the individual were a citizen of the United States or a legal alien and employed under the direct supervision of a licensed auctioneer.

Transactions that would be exempt from requiring a licensed auctioneer would include:

- an auction of property through the Internet;
- a sale or auction conducted while the auctioneer was physically located outside of Texas; and

- sale of motor vehicles at auction by persons holding certain licenses for the sale of motor vehicles.

While certain auctions of motor vehicles would no longer require a licensed auctioneer, a licensed auctioneer could conduct an auction to sell motor vehicles, as defined by Transportation Code, sec. 501.002 or 502.001, if the individual conducted the auction for a person holding:

- a dealer general distinguishing number or wholesale motor vehicle auction general distinguishing number; or
- a salvage vehicle dealer license.

The bill would remove language that currently creates an exception for a real estate brokerage firm operated by a broker licensed by the Real Estate Commission from the entities for which a licensed auctioneer could not conduct an auction.

CSHB 2481 would remove the prohibition on a member appointed to the Auctioneer Advisory Board receiving reimbursement for expenses. The advisory board would be required to meet at the call of the presiding officer of TCLR or the executive director, instead of at least quarterly each calendar year.

The bill would allow TCLR to adopt standards for the advertisement of an auction by an auctioneer or associate auctioneer. The executive director of TCLR no longer would be required to send certain materials and information to an applicant who applied to take the license exam.

The bill would require TCLR to adopt rules necessary to implement the changes made by the bill by March 1, 2016, and an associate auctioneer would not need a license until that date. A person who was licensed as an associate auctioneer on or before June 14, 2013, could apply their work experience participating in auctions that occurred while they were licensed toward their eligibility for an auctioneer's license.

CSHB 2481 would repeal Occupations Code, secs. 1802.001(12) and 1802.051(b) to conform to other changes made.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 2481 would reverse certain revisions made to Occupations Code, ch. 1802 in 2013. It also would remove ineffective regulations on Internet auctions, restore the license and position of associate auctioneer, allow work experience to replace an examination when applying for an auctioneer's license, and clarify that not every employee of an auction company needs to be licensed.

The bill explicitly would allow a person to use the Internet to auction property without having to get an auctioneer's license. Currently, the law purports to regulate online auctions and appears to require that every Texan who posts an item for sale on eBay must have an auctioneer's license. However, the state cannot regulate online auctions because only the federal government can regulate sales across state lines. While the requirement for an auctioneer's license is appropriate to protect consumers from live bid auctioneers who do not properly conduct an auction or transfer the property or funds afterwards, it is not meant to apply to ordinary people engaging in online auctions. A consumer harmed by an online auction could seek remedies through the Federal Trade Commission applying federal law or the Texas Attorney General applying the Texas Deceptive Trade Practices Act.

By restoring the associate auctioneer license, CSHB 2481 would return former associate auctioneers to their livelihoods. When the associate auctioneer license was removed from statute in 2013, about 200 people essentially lost their jobs and could no longer work as associate auctioneers in settings where an auctioneer's license was required. This bill would reestablish the status quo prior to June 14, 2013.

The bill also would allow practical experience gained by associate auctioneers through their employment to count toward their auctioneer's license in the future. Associate auctioneers could skip the written or oral examination if they worked for two years for a licensed auctioneer and participated in at least 10 auctions during that time. This option would be beneficial for an applicant who might not excel at examinations but had put in the time and worked as an associate auctioneer. The bill would lower barriers to becoming an auctioneer for individuals who truly wanted

to work in the field and proved their dedication by working as an associate auctioneer.

CSHB 2481 would clarify that only a person who conducted auctions would need an auctioneer's license, not every person who worked at an auction company. Currently, an "auctioneer" includes a person who solicits, negotiates, or executes an auction listing contract, meaning that employees working for an auctioneer might require an auctioneer's license, even though they do not conduct auctions. This bill would narrow the definition of "auctioneer" to mean only an individual who sells property of another by live bid auction.

The bill would not preclude auctioneers from auctioning certain self-propelling vehicles, such as riding lawn mowers. It merely would limit when an auctioneer could auction motor vehicles, defined by the Transportation Code to include travel trailers, motorcycles, all-terrain vehicles, and vehicles that are required to be registered. Auctioneers still would be allowed to conduct motor vehicle auctions for entities that held certain licenses to sell motor vehicles.

Although some have expressed concerns that CSHB 2481 might prevent auctioneers from conducting auctions of real estate for a real estate brokerage firm, this is not the case because this is already allowed under Occupations Code, ch. 1101.

CSHB 2481 would not affect the ability of a Texas auctioneer to seek reciprocity with another state, or vice versa. Reciprocity of licenses is based only on competency standards and application requirements, not on state laws regulating certain auction transactions such as online auctions.

**OPPONENTS
SAY:**

CSHB 2481 could preclude auctioneers from conducting certain types of auctions, open the door to potentially fraudulent Internet auctions, and raise questions about the reciprocity of Texas auctioneer licenses.

By removing regulations on online auctions, the bill could allow unlicensed and unregulated auctioneers to take advantage of Texans participating in these auctions. The number of online auctions is growing, and regulation is needed to prevent those who conduct auctions online

from wrongfully accepting money without delivering the property that was auctioned. Other businesses, such as gambling and vehicle sales, are regulated online, and the auction business should follow suit. Regulations on Internet auctions need not be so expansive that they cover every situation, such as auctions on eBay, but they should require TCLR to investigate complaints of fraudulent online auctions. People could circumvent the license requirements just because the auction took place online. If an auction is dealing with Texas property located in the state, then Texas law should govern it, whether it is a live bid auction or one conducted online.

The bill would prevent auctioneers from selling motor vehicles in auctions that were not conducted for an entity that held a license to sell motor vehicles, which could have harmful effects. The definition of “motor vehicle” in the Transportation Code is expansive and includes many items that are not generally considered motor vehicles, but that are self-propelling and move on wheels. When a person seeks to auction an estate, usually it includes all the items on the estate, including cars, all-terrain vehicles, or boats on trailers. Motor vehicles are usually big-ticket items that draw attention and attendance to auctions. If this caused fewer people to bid at auctions, it likely would depress the selling prices as well.

Certain changes made by the bill also might preclude an auctioneer from conducting an auction for a real estate brokerage firm. If so, this would harm not only the auctioneer, but also the real estate brokerage firms that could benefit by using the services of the auctioneer to auction properties.

CSHB 2481 could risk the reciprocity relationship Texas has with other states. If Texas did not regulate certain transactions, such as online auctions, other states that do regulate those transactions might be less willing to grant a reciprocal license to a Texas license holder. Other states currently are trying to enact legislation based on changes Texas made in 2013. If the Legislature undid everything that was accomplished by that legislation, other states might not want to recognize license reciprocity with Texas.

NOTES:

CSHB 2481 would differ from the bill as filed in that the committee substitute would:

- allow TCLR to adopt standards for the advertisement of an auction by an auctioneer or associate auctioneer;
- repeal sec. 1802.051(b) to conform to the change mentioned above; and
- allow a licensed auctioneer or associate auctioneer to conduct an auction to sell a motor vehicle if it was being conducted for a person who was a salvage vehicle dealer or held a wholesale motor vehicle auction general distinguishing number.

The Senate companion bill, SB 1443 by Eltife, was considered in a public hearing of the Senate Business and Commerce Committee on April 14.

SUBJECT: Program allowing charities to contact, aid certain public benefit recipients

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Raymond, Rose, Keough, Klick, Naishtat, Peña, Price, Spitzer

0 nays

1 absent — S. King

WITNESSES: For — Bee Moorhead, Texas Impact; (*Registered, but did not testify*: Kathryn Freeman, Christian Life Commission; Melody Chatelle, United Ways of Texas)

Against — None

On — Alice Bufkin, Texans Care for Children; (*Registered, but did not testify*: Kim Bazan, Health and Human Services Commission)

DIGEST: CSHB 2718 would direct the Health and Human Services Commission (HHSC) to establish a program allowing applicants to need-based government programs to consent to being contacted by charitable community- or faith-based organizations offering supplemental assistance. A person would have to be informed about the program and given the opportunity to enroll at the time they applied for benefits under:

- Temporary Assistance for Needy Families;
- Medicaid;
- Supplemental Nutrition Assistance Program; and
- Children's Health Insurance Program.

The bill would require HHSC to develop a procedure for faith-based and community organizations to apply to participate in the program. The HHSC executive commissioner would be required to adopt rules to implement the program, including those:

- describing the types of faith- and community-based organizations

that could apply to participate in the program;

- facilitating contact between a person who enrolled in the program and a faith- and community-based organization participating in the program that provided supplemental services; and
- allowing a person enrolled in the program established under this section to terminate enrollment.

The bill would require a state agency to request any waiver from a federal agency necessary to implement a provision of the program, and the state agency could delay implementing that provision until the waiver was granted.

The bill would take effect September 1, 2016, and the commissioner would be required to adopt the rules necessary to implement the program as soon as practicable after that date.

**SUPPORTERS
SAY:**

CSHB 2718 could help break the cycle of poverty among Texans receiving public assistance by connecting them with nonprofit, faith-based and community-based organizations. These organizations could work with families and individuals to overcome barriers that may be preventing them from becoming self-sufficient.

State employees work hard to help qualifying individuals obtain government benefits, but often are not able to take a personal interest in someone the way a charitable organization could. Volunteers from the selected nonprofits would have time to get to know individuals, set shared goals, and help them achieve those goals. The nonprofits most likely would provide mentoring and other non-monetary supplemental assistance that would not affect participants' income eligibility for need-based government programs.

Many religious and charitable groups have the desire and resources to help struggling families but may not know how to contact those in need. Likewise, applicants for benefits may lack information about community resources or find it embarrassing to personally contact charities. By matching families with resources, the program would provide a valuable service at little cost to taxpayers. If a match was not working, participants could end their involvement at any time.

The Health and Human Services Commission (HHSC) executive commissioner would be the appropriate actor to set the rules for a program that would work for all involved. The bill's effective date of September 1, 2016, would give the commissioner time to develop a well-designed program.

Texas has been a leader for nearly two decades in allowing for greater collaboration between state agencies and charitable organizations. Churches often work with government agencies after natural disasters to provide food and shelter for families. This program would be another opportunity to improve coordination between government and charitable organizations.

OPPONENTS
SAY:

The bill would grant significant rule-making authority to the HHSC executive commissioner, including rules that would determine which community and faith-based organizations could participate and how those organizations would contact state benefit applicants. This could involve giving private entities access to personal information. With such concerns at stake, it might be better to include details about how the program would operate in statute. A better approach also might be to provide applicants with a list of available services and allow them to contact the outside organizations.

Asking Texans to enroll in the supplemental assistance program at the time they apply for benefits could lead some to think participation was mandatory or to feel pressured to enroll. Problems could arise if a charitable organization provided monetary assistance that affected an individual's income eligibility for a need-based government program. Care would need to be taken that volunteers from faith-based organizations understood they could be serving those with different beliefs and values.

OTHER
OPPONENTS
SAY:

While well intentioned, the program proposed under CSHB 2718 could need state funding in order to succeed. A similar program launched in the mid-1990s to help families transitioning from welfare to work suffered because some of the participating nonprofits did not have sufficient financial resources to recruit and train volunteers and match them with

families. Some smaller nonprofits could be unable to participate in the program without a reliable funding source.

NOTES:

The Legislative Budget Board's fiscal note estimates that CSHB 2718 could be implemented within existing resources, although HHSC would have costs to establish the program, develop procedures, and modify the Texas Integrated Eligibility Redesign System.

Unlike the original bill, the committee substitute would:

- allow applicants for benefits to request to be contacted by faith- and community-based organizations;
- offer supplemental assistance to applicants for the children's health insurance program; and
- delay the effective date until September 1, 2016.

SUBJECT: Increasing training hours for early childcare workers

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price
2 nays — Klick, Spitzer
1 absent — S. King

WITNESSES: For — Christina Triantaphyllis, Collaborative for Children; Kim Kofron, Texas Association for the Education of Young Children; Kay Albrecht;
(*Registered, but did not testify:* Mandi Kimball, Children at Risk; Barbara Frandsen, League of Women Voters of Texas; Alice Bufkin, Texans Care for Children; Melody Chatelle, United Ways of Texas)

Against — None

On — Joan Altobelli, Texas Licensed Child Care Association;
(*Registered, but did not testify:* Paul Morris, Department of Family and Protective Services)

BACKGROUND: Human Resources Code, sec. 42.0421 establishes minimum training standards for employees, directors, and operators of facilities, homes, and agencies that provide early childhood care and certain school-age programs.

These minimum requirements include 24 hours of initial training for an employee who has no previous training or less than two years of employment experience in a child-care facility. Eight of these initial training hours must be completed before the employee is given responsibility for a group of children. In addition, employees must complete 24 hours of annual training, which must include at least six hours in certain areas.

DIGEST: CSHB 2903 would require day-care center employees with no previous training or less than two years of employment in a regulated child-care

facility to complete 48 hours of initial training within the first year of employment. Employees could be responsible for a group of children after 16 hours of training. They would need to complete 32 hours of training within 90 days of employment.

CSHB 2903 would require that the 24 hours of annual training be completed by any employee who had completed the initial training hours. This training would have to include six hours of teacher-child interaction courses, in addition to training in other areas required under current law.

Training could be completed online or in person. Thirty hours of the initial training and 12 hours of the annual training would have to be provided by a person who:

- was a training provider registered with the Texas Early Childhood Professional Development System's Texas Trainer Registry;
- was an early childhood development instructor from an accredited public or private secondary school or institution of higher education;
- was a state employee with relevant expertise;
- was a physician, psychologist, licensed professional counselor, social worker, or registered nurse; or
- had at least two years of experience working in child development and (1) had been awarded a Child Development Associate credential or (2) held at least an associate degree in child development, early childhood education, or a related field.

CSHB 2903 no longer would permit individuals who only possess relevant documented knowledge of child care to train employees, directors, or operators of a day-care center, group day-care home, or registered family home.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 2903 would help provide young children with a strong educational and social foundation for future success by modifying the training requirements for day-care employees. Starting at birth, children begin to

learn, making their early years critical for brain and social skill development. Proper training of day-care workers is necessary to ensure that they have quality interactions with young children at this critical stage. Children who were taught by inadequately trained day-care instructors show delays in language and social development. Providing quality instructor interaction lays the foundation for academic and social success for school-age children as they enter kindergarten and beyond.

The bill would better prepare employees for the responsibilities associated with the care of young children. Teaching day-care workers best practices for caring for infants and toddlers and for creating safe environments is essential for these workers to learn how to optimize child development while minimizing risks. An increase in training in certain areas could significantly increase child safety. For instance, child-care providers could be trained to identify potential cases of child abuse.

CSHB 2903 also would result in minimal cost to providers. While training would increase, providers would not be significantly burdened with costs. Several non-profits and government agencies, such as the Department of Family and Protective Services, already offer free and low-cost training resources in person and online. Moreover, allowing online training would ensure that more people could participate in training without worrying about transportation or scheduling.

OPPONENTS
SAY:

CSHB 2903 would provide an unnecessary requirement for increased training of day-care workers that would not necessarily improve student success. While adequate training is important to young child development, more training does not equal high-quality training. To provide adequate training, day-care centers should focus on continuous training, which would equip workers with the necessary skills and knowledge while they were in the classroom.

The additional training required by the bill would increase costs for child-care providers due to the high costs of investing in training and the risk of turnover. Day-care centers have high turnover rates because of low salaries and job dissatisfaction. In response to this issue, day-care centers prefer to limit the minimum training hours required before allowing an employee in the classroom, which limits centers' initial investment costs.

Increasing the required training from eight hours to 16 hours before placing an employee in the classroom would require the center to sink more money into training an employee who might leave before the center could recoup its investment.

NOTES:

CSHB 2903 would differ from the bill as filed in that it would require 48 hours of initial training, compared to 60 in the filed bill, and 16 hours of training prior to receiving responsibility of a group of children, compared to 24 hours in the filed bill. For the initial training, the substitute would require that 32 hours be completed in the first 90 days of employment, compared to 36 hours in the filed bill.

The Senate companion bill, SB 886 by Garcia, was referred to the Senate Health and Human Services Committee on March 4.

The 84th Legislature's enactment of SB 219 by Schwertner, effective April 2, 2015, amended sections of the current Human Resources Code that HB 2903 would further amend, if enacted.

SUBJECT: Grant program to fund domestic violence high-risk teams

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Raymond, Rose, Keough, Klick, Naishtat, Peña, Price, Spitzer
0 nays
1 absent — S. King

WITNESSES: For — (*Registered, but did not testify*: Judy Powell, Parent Guidance Center; Aaron Setliff, The Texas Council on Family Violence; Michael Gutierrez)

Against — None

On — (*Registered, but did not testify*: Debra Owens, Office of Attorney General)

DIGEST: HB 3327 would add Government Code, subch. B, ch. 402 to create the Domestic Violence High Risk Teams Grant Program. Under the program, the attorney general would be responsible for using appropriated money to award grants to domestic violence high-risk teams. The bill would define a domestic violence high-risk team as a multidisciplinary team that coordinates efforts to make victims of family violence safer by monitoring and containing perpetrators, sharing information, and providing victim services. The team could be composed of:

- law enforcement officers;
- prosecutors;
- community supervision and corrections departments;
- victim advocates;
- nonprofit organizations that provide services or shelter to victims of family violence; and
- medical personnel.

Grant recipients could use the grant money only to fund a domestic high-risk team's efforts to reduce or prevent incidents of domestic violence and

provide domestic violence services to victims.

The bill would require the attorney general to:

- request and evaluate proposals for grants;
- award grants based on need for domestic violence services in the community where the team is located and the effectiveness or potential effectiveness of the team;
- establish procedures to administer the grant program, including for submitting and evaluating proposals; and
- apply for any available federal grant funds for the prevention of domestic violence to supplement any appropriations for the program.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

HB 3327 would help prevent homicides of high-risk domestic violence victims. Victims of domestic violence face one of the greatest risks of preventable homicide in Texas. This bill would put to use extensive research that helps identify and predict when a potentially lethal incident is likely to occur.

The bill would interrupt the pattern of escalation in domestic violence cases by addressing victim safety and offender accountability equally. For example, in addition to identifying high-risk cases and supporting victims, the bill would allow for the coordinated monitoring and containment of offenders.

Confidential information could be shared through secure systems with team members in the community, communication that is vital for achieving a fast and appropriate response in cases of domestic violence. Sharing of information could lead to the early identification of high-risk offenders, which is critical for preventing homicides.

Money to fund these grants would not come from the attorney general's existing budget. Even if the Legislature did not appropriate funding for this program, which currently appears in Article 11 of the House-passed fiscal 2016-17 general appropriations bill, the attorney general still could

apply for federal funding to award grants under the program.

The proposed Domestic Violence High Risk Teams Grant Program is modeled on a similar program developed in Massachusetts that has proved extremely successful at using risk assessments to identify and monitor domestic violence victims at the highest risk of homicide. The Department of Justice has identified this model as one of the most promising practices for the nation, and the Massachusetts program already has provided training for 4,000 criminal justice professionals and advocates.

**OPPONENTS
SAY:**

HB 3327 could create an unfunded mandate. Federal grant money is not guaranteed and might not be sufficient for the program to function effectively without an appropriation from the Legislature for the attorney general to use in awarding grants.

NOTES:

According to the Legislative Budget Board's fiscal note, the fiscal implications of HB 3327 cannot be determined at this time due to a number of unknown variables, including the number and value of the grants that would be awarded. The House-passed budget bill includes \$4 million under Article 11 for the Domestic Violence High Risk Teams Grant Program during fiscal 2016-17.

A similar bill to create a grant program to fund domestic violence high-risk teams, SB 1706 by Huffman, was approved by the Senate State Affairs Committee on April 14 and recommended for the local and uncontested calendar.

SUBJECT: Requiring disclosure of gestational agreements in divorce proceedings

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White
0 nays

WITNESSES: For — Crystal Travis McRae, Wendee Lee Curtis, Maulik Modi, and Letitia Plummer, Intended Parents' Rights; Sharmila Rudrappa; (*Registered, but did not testify*: Eraka Watson, Childs Law Firm, P.C.; Ingrid Montgomery, Intended Parents' Rights; Steve Bresnen, Texas Family Law Foundation; Erica Babino; Connie Gray; Marci Purcell)

Against — Cecilia Wood, Concerned Women for America of Texas; Jonathan Saenz, Texas Values Action; (*Registered, but did not testify*: Ann Hettinger, Concerned Women for America of Texas; Jeffery Patterson, Texas Catholic Conference of Bishops; MerryLynn Gerstenschlager, Texas Eagle Forum)

On — (*Registered, but did not testify*: Nichole Bunker-Henderson, Texas Education Agency)

BACKGROUND: Gestational agreements, governed by the Uniform Parentage Act under Family Code, ch. 160, subch. I, are written agreements containing agreed-upon terms to have a child using a gestational surrogate. These agreements may be formed if certain qualifications are met under Family Code, sec. 160.754. The parties seeking to have a child under a gestational agreement are known as "intended parents" and may or may not have a genetic link to the child.

Gestational agreements must follow certain guidelines under the Uniform Parentage Act in order to be validated, and the court has discretion over whether or not to validate a gestational agreement.

Family Code, sec. 6.406(a) requires parties petitioning for divorce to disclose any child born or adopted into the marriage who is under the age

of 18.

Family Code, sec. 102.003(a) provides a list of those who have standing to file a suit affecting a parent-child relationship, including a child's parent or the prospective adoptive parents of a child as named by a pregnant woman or by the child's parents.

DIGEST: CSHB 1704 would require parties petitioning for divorce to disclose whether a party to the marriage was pregnant or whether the parties had entered into a gestational agreement establishing a parent-child relationship between the intended parties and the child to be born.

The bill also would allow intended parents under a gestational agreement that complied substantially with Family Code, sec. 160.754 to file a suit affecting a parent-child relationship. This provision would apply whether or not the child had been born.

CSHB 1704 would take effect September 1, 2015, and would apply only to divorce suits filed on or after that date.

SUPPORTERS SAY: CSHB 1704 would provide critical protection to intended parents and children conceived under gestational agreements by authorizing intended parents to file lawsuits affecting the parent-child relationship and by requiring disclosure of these agreements in divorce petitions. Children conceived through in vitro fertilization (IVF) and other forms of assisted reproduction are becoming more common, and legal issues related to gestational agreements likely will increase. Texas needs to position itself to stay ahead of the issue by instituting laws that reflect modern realities.

Current law related to gestational agreements is complex, and parties wishing to assert their rights often must undergo the costly and complicated process of hiring an attorney who understands these procedures. Under this bill, intended parents would have the explicit authority to bring a suit regarding the parent-child relationship if any issues arose. Putting this authorization in statute also would increase awareness of gestational agreements in the judiciary. Furthermore, by requiring disclosure of these agreements in divorce proceedings, this bill would allow judges to determine the best outcomes for children in divorce

cases, as well as other legal suits involving the parent-child relationship.

CSHB 1704 would be important for protecting parties involved in gestational agreements who might not have a voice otherwise. Intended parents may not assert themselves because of the stigma of having children conceived through these means. Establishing a law to protect individuals pursuing assisted reproduction would raise the profile of the issue and empower more people to assert their rights. In addition, the law would protect the children conceived and born through gestational agreements by ensuring the court could protect their interests.

CSHB 1704 would provide a better solution for intended parents than would the bill as introduced. The substitute would protect the rights of intended parents while addressing concerns about the filed bill, including that HB 1704 as introduced could have required gestational agreements validated under the laws of other states or countries to be accepted in Texas. CSHB 1704 would resolve an important gap in state law while still maintaining the validation process of gestational agreements in Texas.

**OPPONENTS
SAY:**

CSHB 1704 would protect practices that some Texans consider potentially harmful and morally questionable, in vitro fertilization (IVF) and surrogacy. These processes often result in the deliberate creation of more embryos than the surrogate can bring to term, which can lead to routine destruction of unused embryos. Gestational surrogacy can be physically and emotionally taxing on the women who carry babies to term on behalf of other parents, as well as any family members of the surrogate who may have difficulty coming to terms with the arrangement.

NOTES:

CSHB 1704 differs substantially from HB 1704 as introduced. The filed version of HB 1704 would have made several changes to the Uniform Parentage Act under Family Code, sec. 160 regarding gestational agreements, including changes related to:

- the procedure for establishing a parent-child relationship under a gestational agreement;
- the requirements to validate gestational agreements; and
- the responsibilities of intended parents if a gestational agreement were not validated.

CSHB 1704 does not include these changes and instead would amend what disclosures are required in a divorce petition and who could have standing in a suit affecting a parent-child relationship.

The 84th Legislature's enactment of SB 219 by Schwertner, effective April 2, 2015, amended sections of the current Human Resources Code that HB 1704 would further amend, if enacted.

SUBJECT: Treating references to the Probate Code as references to the Estates Code

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Clardy, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

1 absent — Hernandez

WITNESSES: For — Craig Hopper, Real Estate, Probate, and Trust Law Section (REPTL) of State Bar of Texas

(Registered, but did not testify: Glenn Karisch, Real Estate, Probate, and Trust Law Section of the State Bar of Texas); Guy Herman; Julia Jonas

Against — None

BACKGROUND: In 2009, the 81st Legislature enacted HB 2502 by Hartnett. This, combined with the enactment of HB 2759 by Hartnett in 2011, made technical additions and conforming changes to the Texas Probate Code and transferred the substance of that code to a new Estates Code, effective January 1, 2014.

DIGEST: HB 2419 would combine the former Texas Probate Code and the Texas Estates Code. The two codes would be considered one continuous statute. If any instrument referred to the Probate Code, the Estates Code would be considered an amendment to the Probate Code.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: HB 2419 would clarify that references to the former Probate Code in instruments such as wills and trusts would maintain their intended effect. It is common for drafting attorneys to include in wills, trusts, and other

documents references to current statutes. References to the Probate Code were appropriate before its provisions were transferred to the Estates Code. Now references to the Probate Code could be confusing because it no longer contains substantive law. The bill would ensure that documents referring to the Probate Code maintained their intended meaning and did not have to be redrafted.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The companion bill, SB 993 by Rodriguez, was referred to the Senate Committee on State Affairs on March 10.

SUBJECT: Establishing procedures for public integrity prosecutions

COMMITTEE: General Investigating and Ethics — committee substitute recommended

VOTE: *After recommitted:*
4 ayes — Kuempel, S. Davis, Hunter, Larson

2 nays — Collier, Moody

1 absent — C. Turner

WITNESSES: *March 26 public hearing:*
For — None

Against — Jules Dufresne, Common Cause Texas; Carol Birch, Public Citizen, Texans for Public Justice; Sara Smith, Texas Public Interest Research Group; (*Registered, but did not testify:* Kelley Shannon, Freedom of Information Foundation of Texas)

On — Brantley Starr, Office of Attorney General; David Slayton, Office of Court Administration, Texas Judicial Council; Steven McCraw, Texas Department of Public Safety; Robert Kepple, Texas District and County Attorneys Association; Gregg Cox, Travis County District Attorney's Office, Public Integrity Unit

BACKGROUND: The Travis County District Attorney established the Public Integrity Unit in 1978 to investigate and prosecute crimes related to state government. Cases include fraud and financial crimes targeting various state programs and public corruption cases against state employees and officials involving offenses in Travis County. The Legislature has funded the unit since the early 1980s. The unit's funding for fiscal 2014-15 was vetoed by the governor.

DIGEST: CSHB 1690 would add to Government Code, ch. 41 a new subchapter establishing procedures for public integrity prosecutions.

The bill would include the following as offenses against public

administration:

- offenses listed in Title 8 of the Penal Code, such as bribery and coercion, when committed by a state officer or state employee in connection with the powers and duties of the state office or employment;
- conduct that violates Government Code requirements for the Legislature, House speaker, and lobbyists, including lobbyist registration, campaign finance, and personal financial disclosure requirements;
- violations of nepotism laws committed by state officers; and
- violations of Election Code regulations of political funds and campaigns committed in connection with a campaign for or the holding of state office or an election on a proposed constitutional amendment.

The bill would not limit the authority of the attorney general to prosecute election law offenses.

Investigations. Officers of the Texas Rangers would be required to investigate formal or informal complaints alleging an offense against public administration. If there were a conflict of interest involving an investigation of a member of the executive branch, the Rangers could refer an investigation to the local law enforcement agency that would otherwise have authority to investigate the complaint. Local law enforcement would have to comply with all the bill's requirements

Prosecutions. Investigations that demonstrate a reasonable suspicion that an offense occurred would be referred to the prosecutor in either:

- the county where the defendant resides; or
- the county where the defendant resided when the defendant was elected to a statewide office subject to a residency requirement in the Texas Constitution.

A prosecutor could request to be recused from a case for good cause. If the court with jurisdiction over the complaint approved the request, an

alternate prosecutor would be selected by a majority vote of the presiding judges of the state's nine administrative judicial regions. The administrative judges would be required to select an alternate prosecutor from the same administrative judicial region and would have to consider the proximity of the county or district represented by the new prosecutor to the county in which venue is proper. The alternate prosecutor could pursue a waiver to extend the statute of limitations for the offense only with approval of a majority of the administrative judges.

CSHB 1690 would remove the Travis County district attorney from prosecutions for contempt of the Legislature under Government Code, sec. 301.027. When the Legislature was not in session, the Senate president or House speaker would be required to certify a statement of facts concerning the contempt allegations to the appropriate prosecuting attorney under the bill's venue provisions. The prosecuting attorney or an alternate prosecutor selected under the bill's recusal provisions would have to bring the matter before the grand jury for action and, if the grand jury returned an indictment, would have to prosecute the indictment.

Confidentiality. The bill would require state agencies and local law enforcement agencies to cooperate with public integrity prosecutions by providing information requested by the prosecutor and would exempt disclosed information from state public information laws.

The bill would take effect September 1, 2015, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 1690 would establish a fairer process for investigating and prosecuting elected officials for public corruption crimes, such as bribery and violations of ethics laws. Complaints would be investigated by the Texas Rangers and prosecuted in the home county of the officer or employee. This process would disperse power from a single district attorney's office in the state capital to prosecutors around the state. This spreading of authority could help alleviate concerns that politics has played a role in certain high-profile prosecutions of state officials in Travis County.

The Texas Rangers are an elite law enforcement agency with sufficient

training and experience to conduct public integrity investigations. The Rangers already have a unit dedicated to public corruption cases and could easily absorb the small number of complaints brought against state officials each year. The Rangers also have civil service protections that could give them an added layer of independence from political pressure that could be connected to an investigation. The bill would guard against possible conflicts of interest by allowing the Rangers to refer cases involving members of the state executive branch to a local law enforcement agency.

The bill would create a neutral venue and would allow defendants to be tried by a jury of their peers. Contrary to opponents' suggestions that the hometown venue would favor a defendant, the criminal prosecution likely would be more accessible to local voters and covered by local media. In addition, up to \$500,000 could be made available through a contingency rider in Art. 11 of the general appropriations act to pay for witness travel and other costs associated with the bill's venue provisions. There is precedent in state law for trying defendants in the county where they reside for offenses committed elsewhere. For example, Code of Criminal Procedure, art. 13.10 provides that certain offenses committed outside Texas by a state officer acting under state authority may be prosecuted in the county where the officer resides.

If a local prosecutor had a conflict of interest, the bill would create a process for that prosecutor to ask to be recused and for an alternate prosecutor to be appointed. Opponents claim that the bill relies too much on a prosecutor's willingness to be recused, but public pressure likely would force the hand of a prosecutor who should step aside but declined to do so.

The bill would not disturb Travis County's jurisdiction over offenses involving insurance fraud and motor fuels tax collections. The Travis County D.A.'s Public Integrity Unit would continue to prosecute fraud and financial crimes targeting various state programs and certain crimes committed by state employees. These cases make up the vast majority of the Public Integrity Unit's caseload. Under the House-passed budget, the unit would receive \$6.5 million in general revenue and general revenue dedicated funds for fiscal 2016-17, contingent on the passage of HB 1690

or similar legislation.

Concern about the confidentiality of information provided in connection with public integrity prosecutions is overstated. Current law contains exceptions from public information laws for records and information if the release of the information would interfere with a criminal investigation or prosecution.

**OPPONENTS
SAY:**

CSHB 1690 could result in less accountability in public corruption cases against state officers and state employees by giving those defendants a “home-field advantage” during a prosecution. The bill would make a significant change from the usual prosecution of crimes in the county where they occurred. This could lead to troubling situations, such as a public servant accused of official oppression for actions taken while on assignment in one part of the state being tried far from the county where the acts occurred.

Placing venue in an official’s home county would set the stage for crony politics. For example, the local prosecutor overseeing the case may be friends or political acquaintances with the official being prosecuted. The bill lacks any requirements for recusal of a prosecutor and leaves it up to a prosecutor to self-report and ask for a recusal.

In the event that a prosecution was transferred to another county, the bill also could increase costs for public corruption prosecutions if witnesses were required to travel to a county far from where the crime occurred. An estimated \$500,000 could be needed to reimburse counties for costs associated with prosecuting officials in their home counties.

There could be conflicts of interest involving the Texas Rangers, which is a division of the Texas Department of Public Safety (DPS). The DPS director is hired by the Public Safety Commission, whose five members are appointed by the governor. Many other high-ranking state executives also are appointed by the governor. While the Rangers could refer an investigation involving a member of the executive branch to a local law enforcement agency, they would not be required to transfer the case.

CSHB 1690 would exempt from state public information laws information from state agencies and local law enforcement provided in connection

with public integrity prosecutions. This blanket exemption could result in information that normally would be available to the public through open records laws becoming off limits when a local prosecutor takes over a case.

The bill is based on incorrect perceptions that the Travis County District Attorney has made partisan decisions in public corruption prosecutions. Since its inception, the D.A.'s Public Integrity Unit has prosecuted elected officials from both political parties. Additionally, the bill could complicate the Travis County D.A.'s ability to pursue certain charges involving employees who lived outside Travis County.

NOTES:

The author of CSHB 1690 planned to offer floor amendments to:

- remove violations of lobby registration laws as an offense covered by the bill;
- define “state agency” as an executive branch entity to ensure that investigators must subpoena judicial and legislative records;
- clarify that Government Code offenses must be committed in connection with the powers and duties of the state office or state employment or by a candidate for state office;
- clarify that another state agency having primary responsibility for investigating a complaint alleging an offense against public administration could continue to perform those investigations;
- require a prosecutor selected as an alternate to the home county prosecutor to be appointed only with the prosecutor’s consent;
- place venue in the county where the defendant resided at the time the offense was committed; and
- clarify that venue for prosecuting a statewide elected official would be the county in which the defendant resided at the time the defendant was initially elected to statewide office.

Unlike the filed bill, the committee substitute would:

- require investigations of complaints alleging offenses against public administration to be conducted by an officer of the Texas Rangers;

- allow the Rangers to refer complaints to local law enforcement agencies if the Rangers have a conflict of interest;
- place venue in a defendant's county of residence or the county where certain statewide officials previously resided; and
- permit local prosecutors to be recused for good cause and establish a process for their replacement.

SB 10 by Huffman concerning offenses against public administration was passed by the Senate on April 9.

CSHB 1690 was reported favorably as substituted by the House Committee on General Investigating and Ethics on April 2, placed on the General State Calendar for April 16, recommitted on a point of order and again reported favorably on April 17.